

**07 FHL 136 New**

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**From:** "Brian Christensen" <bchrist@email.fleming.com>  
**To:** <teresan@fleming-logistics.com>  
**Sent:** Tuesday, July 01, 2003 7:31 AM  
**Subject:** Re: In re Fleming Companies, Inc., et al./Case No. 03-10945(MFW)

I agree that the database is not software but the court did rule that his package is his property and Fleming did infringe by altering it. We were in the process of an appeal that Lex thought would have a good chance in reversing but the bankruptcy filing set all that aside so we are stuck with the original verdict.

If there is similar software out there for our needs we should explore it. No matter what happens to this company, if we have something that works, I doubt the new owners would stop us.

Berry and Hogan will probably not go away even after we get certified that we no longer have his software. But by doing this, we have a strong case and anymore "discovery" would have to be on his dime. He will probably sue us for something else.

>>> "Teresa Noa" <teresan@fleming-logistics.com> 06/30/03 08:38PM >>>

I wish we could hire a lawyer from Access database firm to show that the database that Mr. Berry created is not a SOFTWARE. It is simply a database - much like the video/music database that I have on my computer to keep inventory, and value of the collection I have. Do I have the right to copyright that - in which millions of other people have an interest in having also - and probably have created the same FORMAT that I have?

There are other companies out there that have a database to keep track of the same things we keep track of - we should have taken a look at the similarities these may have had to what we use.

Frankly - I would be quite interested in seeing what the creators of the Access Database Software call Mr Berry's SOFTWARE. It is not SOFTWARE.

I am also quite concerned that he has brought 8 of his employees into this madness. What does he think he's going to get out of 8 EMPLOYEES? Can't get blood from a turnip.

This is pure, again, madness. Will he ever stop?

----- Original Message -----

From: "Brian Christensen" <bchrist@email.fleming.com>  
Sent: Monday, June 30, 2003 10:06 AM  
Subject: Fwd: In re Fleming Companies, Inc., et al./Case No. 03-10945 (MFW)

> FYI

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